

# **MONTANA MEDICAL LEGAL PANEL**

**AUDITED FINANCIAL STATEMENTS  
With Supplemental Information**

**December 31, 2012 and 2011**



**Junkermier • Clark  
Campanella • Stevens • P.C.**

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Certified Public Accountants and Business Advisors

## MONTANA MEDICAL LEGAL PANEL

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## LEGISLATIVE AUDIT DIVISION

Tori Hunthausen, Legislative Auditor  
Deborah F. Butler, Legal Counsel



Deputy Legislative Auditors:  
Cindy Jorgenson  
Angus Maciver

June 2013

The Legislative Audit Committee  
of the Montana State Legislature:

Enclosed is the report on the audit of the Montana Medical-Legal Panel, Montana Supreme Court, for the year ended December 31, 2012.

The audit was conducted by Junkermier, Clark, Campanella, Stevens, P.C., under a contract between the firm and our office. The contents of this report represent the views of the firm and not necessarily the Legislative Auditor.

The agency's written response to the report is included in the back of the audit report.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Tori Hunthausen".

Tori Hunthausen, CPA  
Legislative Auditor

13C-05

**MONTANA MEDICAL LEGAL PANEL  
ADMINISTRATIVE OFFICIALS**

Jean Branscum  
Carl Deitchman

Executive Director  
Fiscal Director



**Junkermier • Clark  
Campanella • Stevens • P.C.**

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## **INDEPENDENT AUDITORS' REPORT**

To the Legislative Audit Committee  
of the Montana State Legislature  
Helena, Montana

We have audited the accompanying statements of assets, liabilities, and fund balances - cash basis of Montana Medical Legal Panel, as of and for the year ended December 31, 2012 and 2011, and the related notes to the financial statements and statements of revenues, expenses, and changes in fund balances - cash basis for the years then ended.

### Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

Basis for Adverse Opinion on U.S. Generally Accepted Accounting Principles

As described in Note 1 of the financial statements, the financial statements are prepared by Montana Medical Legal Panel on the cash basis of accounting, which is a basis of accounting other than accounting principles generally accepted in the United States of America.

The effects on the financial statements of the variances between the cash basis of accounting described in Note 1 and accounting principles generally accepted in the United States of America, although not reasonably determinable, are presumed to be material.

Adverse Opinion on U.S. Generally Accepted Accounting Principles

In our opinion, because of the significance of the matter discussed in the “Basis for Adverse Opinion on U.S. Generally Accepted Accounting Principles” paragraph, the financial statements referred to above do not present fairly, in accordance with accounting principles generally accepted in the United States of America, the financial position of Montana Medical Legal Panel as of December 31, 2012 and 2011, or changes in financial position or cash flows thereof for the years then ended.

Opinion on Cash Basis of Accounting

In our opinion, the financial statements referred to above present fairly, in all material respects, the assets, liabilities, and fund balances of the Montana Medical Legal Panel, as of December 31, 2012 and 2011, and its revenue, expenses and changes in fund balances for the years then ended, in conformity with the basis of accounting described in Note 1.

Other Matters

Our audit was conducted for the purpose of forming opinions on the basic financial statements of the Montana Medical Legal Panel taken as a whole. The schedules of revenue collected and expenses paid - budget vs actual for the years ended December 31, 2012 and 2011 are presented for purposes of additional analysis and are not a required part of the basic financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued our report dated May 22, 2013, on our consideration of Montana Medical Legal Panel's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

***Junkermier, Clark, Campanella, Stevens, P.C.***

Helena, Montana  
May 22, 2013

**MONTANA MEDICAL LEGAL PANEL**  
**STATEMENT OF ASSETS, LIABILITIES, AND FUND BALANCES - CASH BASIS**  
**December 31, 2012 and 2011**

		<b>December 31</b>	
		<b><u>2012</u></b>	<b><u>2011</u></b>
<b>ASSETS</b>			
<b>CURRENT ASSETS</b>			
Cash in bank		\$ 215,264	\$ 344,360
Investments		<u>155,010</u>	<u>-</u>
Total assets		<b><u>\$ 370,274</u></b>	<b><u>\$ 344,360</u></b>
<b>LIABILITIES AND FUND BALANCES</b>			
<b>FUND BALANCES</b>			
Restricted		<u>\$ 370,274</u>	<u>\$ 344,360</u>
Total liabilities and fund balances		<b><u>\$ 370,274</u></b>	<b><u>\$ 344,360</u></b>

See the notes to financial statements.



**MONTANA MEDICAL LEGAL PANEL**  
**STATEMENTS OF REVENUES, EXPENSES, AND CHANGES IN FUND BALANCES - CASH BASIS**  
**December 31, 2012 and 2011**

	<b>Years ended December 31</b>	
	<b>2012</b>	<b>2011</b>
<b>REVENUES</b>		
Assessment fees	\$ 655,524	\$ 707,711
Interest income	4,259	792
Miscellaneous income	6,031	3,675
Unrealized gain	1,645	-
Total revenues	<u>667,459</u>	<u>712,178</u>
<b>EXPENSES</b>		
Administrative	285,055	296,703
Computer software	6,795	15,816
Panelist travel	65,094	58,331
Panelist hearing time	64,636	65,080
Records reproduction	9,331	20,510
Panelist preparation and travel time	117,679	106,692
Panel legal counsel	12,000	42,114
Medical records and x-rays	35,518	25,373
Postage	13,171	12,623
Panel consultant	-	2,000
Meeting rooms	10,621	9,208
Office supplies	8,279	4,110
Telephone	2,383	3,694
Miscellaneous	3,254	3,095
Liability insurance	2,529	5,435
Professional services	5,200	5,200
Total expenses	<u>641,545</u>	<u>675,984</u>
<b>CHANGE IN FUND BALANCES</b>	25,914	36,194
Fund balances, beginning of year	<u>344,360</u>	<u>308,166</u>
<b>FUND BALANCES, END OF YEAR</b>	<u><u>\$ 370,274</u></u>	<u><u>\$ 344,360</u></u>

See the notes to financial statements.

**MONTANA MEDICAL LEGAL PANEL  
NOTES TO FINANCIAL STATEMENTS  
December 31, 2012 and 2011**

**1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

***Nature of Activities***

Montana Medical Legal Panel ("the Panel") was established by the "Montana Medical Legal Panel Act" as authorized by Section 27-6-101 and 104 MCA. The panel is attached to the Montana Supreme Court for administrative purposes only, except that 2-15-121(2) M.C.A. does not apply.

The Montana Medical Legal Panel was created to review all malpractice claims or potential claims against health care providers. The purpose of the Montana Medical Legal Panel is to prevent, whenever possible, the filing of court actions against health care providers and their employees for professional liability situations in which the facts do not permit at least a reasonable inference of malpractice, and to make possible the fair and equitable disposition of such claims against health care providers as are or reasonably may be well founded.

***Basis of Accounting***

The accompanying financial statements have been prepared on the cash basis of accounting, which is a comprehensive basis of accounting other than generally accepted accounting principles. Accordingly, revenue is recorded when received rather than when earned and expenses are recognized when paid rather than when the obligation is incurred.

***Fund Accounting and Balances***

The Montana Medical Legal Panel is funded with state special revenue funds derived from annual assessments. Accounts are organized in funds according to state law. The Panel uses the following funds:

**Governmental Funds:**

Special Revenue Fund - accounts for the proceeds of specific revenue sources that are legally restricted to expenditures for specific purposes. Legislative appropriation is required to spend from this fund.

For the year ended December 31, 2011, the Panel implemented the provisions GASB Statement 54 Fund Balance Reporting and Governmental Fund Type Definitions. The objective of Statement 54 is to enhance the usefulness of fund balance information by providing clearer fund balance classifications that can be more consistently applied and by clarifying the existing governmental fund type definitions. This Statement establishes fund balance classifications that comprise a hierarchy based primarily on the extent to which a government is found to observe constraints imposed upon the use of resources reported in governmental funds. The clarifications of the governmental fund type definitions should reduce uncertainty about which resources can or should be reported in the respective fund types. These new classifications include nonspendable and spendable, which is further reported as restricted, committed, assigned and unassigned.

**MONTANA MEDICAL LEGAL PANEL**  
**NOTES TO FINANCIAL STATEMENTS (CONTINUED)**  
**December 31, 2012 and 2011**

**1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)**

***Fund Accounting and Balances (Continued)***

As of December 31, 2012 and 2011, fund balances of the governmental special revenue funds are classified as follows:

**Nonspendable** — amounts that cannot be spent either because they are in nonspendable form or because they are legally or contractually required to be maintained intact. The Panel had no nonspendable fund balances as of December 31, 2012 and 2011.

**Restricted** — amounts that can be spent only for specific purposes because of constitutional provisions or enabling legislation or because of constraints that are externally imposed by creditors, grantors, contributors, or the laws or regulations of other governments.

**Committed** — amounts that can be used only for specific purposes determined by state legislation and appropriated to the Panel. The Panel had no committed fund balances as of December 31, 2012 and 2011.

**Assigned** — amounts that do not meet the criteria to be classified as restricted or committed but that are intended to be used for specific purposes. The Panel had no assigned fund balances as of December 31, 2012 and 2011.

**Unassigned** — all other spendable amounts. The Panel had no unassigned fund balances as of December 31, 2012 and 2011.

When both restricted and unrestricted resources are available in a fund, the assumed order of spending is restricted first, next committed, next assigned, and finally unassigned.

***Assessment Fees***

The Montana Medical Legal Panel is funded by an annual assessment fee levied against licensed physicians, dentists, podiatrists, hospitals, and other health care facilities in an amount sufficient to meet all panel costs. Annual assessments are apportioned among each group of health care providers according to the number of claims brought against each type of provider.

***Cash and Cash Equivalents:***

The Montana Medical Legal Panel considers all highly liquid investments with maturity of three months or less when purchased to be cash equivalents. Due to their highly liquid nature, carrying value approximates fair value.

***Investments***

Investments with maturities of one year or less consist of mutual funds held at Edward Jones. The Montana Medical Legal Panel values these investments at their fair value.

Under professional standards, investments in marketable securities with readily determinable fair values and all investments in debt securities are valued at fair values in the statements of assets, liabilities and net assets - modified cash basis. Unrealized gains and losses are included in the change in fund balance.

**MONTANA MEDICAL LEGAL PANEL**  
**NOTES TO FINANCIAL STATEMENTS (CONTINUED)**  
**December 31, 2012 and 2011**

**2. CASH AND INVESTMENTS**

Cash in the bank consists of the following deposit accounts as of December 31:

	2012	2011
Valley Bank - checking	\$ 74,679	\$ 39,658
US Bank - money market	9,297	99,114
First Community Bank - money market	121,967	196,329
Mountain West Bank - money market	9,321	9,259
	<u>\$ 215,264</u>	<u>\$ 344,360</u>

Individual accounts are insured by the Federal Deposit Insurance Corporation up to \$250,000 and balances throughout the year did not exceed this amount.

The following table presents the cost and the fair value of investments at December 31,

	2012		2011	
	<u>Cost</u>	<u>Fair Value</u>	<u>Cost</u>	<u>Fair Value</u>
Short-Term Bond Funds	\$ 153,355	\$ 155,010	\$ -	\$ -

Effective December 31, 2012, the Program implemented the provisions of Governmental Accounting Standards Board (GASB) Statement No. 40 "Deposits and Investment Risk Disclosures". The investment risk disclosures are described in the following paragraphs.

Credit Risk

Credit risk is defined as the risk that an issuer or other counterparty to an investment will not fulfill its obligations. The short-term bond funds have credit risk as measured by major credit rating services. This risk is that the issuer of securities held in the short-term bond funds may default in making timely principal and interest payments. The short-term bond funds held a four star Morningstar rating as of December 31, 2012.

Custodial Credit Risk

Custodial credit risk for investments is the risk that, in the event of the failure of the counterparty to a transaction, a government will not be able to recover the value of the investment or collateral securities that are in the possession of the outside party.

As of December 31, 2012, all investments at Edward Jones are covered by Securities Investor Protection Corporation (SIPC).

Interest Rate Risk

Interest rate risk is the risk that changes in interest rates will adversely affect the fair value of an investment. The Panel does not have a formal investment policy that limits investments maturities as a means of managing its exposure to fair value losses arising from increasing interest rates.

**MONTANA MEDICAL LEGAL PANEL**  
**NOTES TO FINANCIAL STATEMENTS (CONTINUED)**  
**December 31, 2012 and 2011**

**3. RELATED PARTIES**

Jean Branscum is the executive vice president of the Montana Medical Association and the director of the Montana Medical Legal Panel. The Montana Medical Association bills the Montana Medical Legal Panel for services and facilities provided to that Organization. This administrative fee is subject to the approval of the Chief Justice of the Montana Supreme Court. The Montana Medical Association was paid administrative fees of \$285,055 and \$296,703 for the years ended December 31, 2012 and 2011, respectively.

**4. RISK MANAGEMENT**

The Panel is exposed to risk of loss primarily through the possible errors and omissions pertaining to claims filed with the Panel. This risk is transferred through the purchase of a professional liability policy from a private insurance carrier.

**5. SUBSEQUENT EVENTS**

Management has evaluated subsequent events through May 22, 2013, the date on which the financial statements were available to be issued.

**MONTANA MEDICAL LEGAL PANEL**  
**SCHEDULE OF REVENUES COLLECTED AND EXPENSES PAID - BUDGET VS. ACTUAL**  
**FOR THE YEAR ENDED DECEMBER 31, 2012**

	<u><b>TOTAL</b></u>	<u><b>BUDGET</b></u>	<u><b>VARIANCE</b></u> <u><b>FAVORABLE</b></u> <u><b>(UNFAVORABLE)</b></u>
<b>REVENUE</b>			
Assessment fees	\$ 655,524	\$ 658,161	\$ (2,637)
Interest income	4,259	1,654	2,605
Unrealized Gain	1,645	-	1,645
Miscellaneous income	<u>6,031</u>	<u>5,321</u>	<u>710</u>
	<u>667,459</u>	<u>665,136</u>	<u>2,323</u>
<b>EXPENSE</b>			
Administrative	285,055	285,055	-
Computer software	6,795	69,000	62,205
Panelist travel	65,094	67,300	2,206
Panelist hearing time	64,636	75,400	10,764
Records reproduction	9,331	8,000	(1,331)
Panelist prep and travel time	117,679	130,600	12,921
Panel legal counsel	12,000	17,500	5,500
Medical records and x-rays	35,518	29,250	(6,268)
Postage	13,171	15,000	1,829
Panel consultant	-	1,000	1,000
Meeting rooms	10,621	10,600	(21)
Office supplies	8,279	5,000	(3,279)
Telephone	2,383	3,000	617
Miscellaneous	3,254	4,500	1,246
Liability insurance	2,529	3,000	471
Professional services	<u>5,200</u>	<u>5,200</u>	<u>-</u>
Legal defense	<u>-</u>	<u>16,000</u>	<u>16,000</u>
	<u>641,545</u>	<u>745,405</u>	<u>103,860</u>
Net Income (Loss)	<u><u>\$ 25,914</u></u>	<u><u>\$ (80,269)</u></u>	<u><u>\$ 106,183</u></u>

See the accompanying independent auditors' report.

**MONTANA MEDICAL LEGAL PANEL  
SCHEDULE OF REVENUES COLLECTED AND EXPENSES PAID - BUDGET VS. ACTUAL  
FOR THE YEAR ENDED DECEMBER 31, 2011**

	<u><b>TOTAL</b></u>	<u><b>BUDGET</b></u>	<u><b>VARIANCE FAVORABLE (UNFAVORABLE)</b></u>
<b>REVENUE</b>			
Assessment fees	\$ 707,711	\$ 889,381	\$ (181,670)
Interest income	792	3,212	(2,420)
Miscellaneous income	<u>3,675</u>	<u>5,019</u>	<u>(1,344)</u>
	<u>712,178</u>	<u>897,612</u>	<u>(185,434)</u>
<b>EXPENSE</b>			
Administrative	296,703	319,405	22,702
Computer software	15,816	35,000	19,184
Panelist travel	58,331	75,000	16,669
Panelist hearing time	65,080	85,000	19,920
Records reproduction	20,510	25,000	4,490
Panelist prep and travel time	106,692	155,000	48,308
Panel legal counsel	42,114	42,000	(114)
Medical records and x-rays	25,373	32,500	7,127
Postage	12,623	15,000	2,377
Temporary personnel	-	5,000	5,000
Panel consultant	2,000	5,000	3,000
Meeting rooms	9,208	12,000	2,792
Office supplies	4,110	6,000	1,890
Telephone	3,694	4,000	306
Miscellaneous	3,095	2,000	(1,095)
Liability insurance	5,435	1,000	(4,435)
Professional services	5,200	15,000	9,800
	<u>675,984</u>	<u>833,905</u>	<u>157,921</u>
Net Income (Loss)	<u>\$ 36,194</u>	<u>\$ 63,707</u>	<u>\$ (27,513)</u>

See the accompanying independent auditors' report.



**Junkermier • Clark  
Campanella • Stevens • P.C.**

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**INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL OVER FINANCIAL  
REPORTING AND ON OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS  
PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS**

To the Legislative Audit Committee  
of the Montana State Legislature  
Helena, Montana

We have audited the financial statements of Montana Medical Legal Panel as of and for the year ended December 31, 2012, and have issued our report thereon dated May 22, 2013. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control over Financial Reporting

In planning and performing our audit of the financial statements, we considered Montana Medical Legal Panel's internal control over financial reporting to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of Montana Medical Legal Panel's internal control. Accordingly, we do not express an opinion on the effectiveness of the Organization's internal control over financial reporting.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or, significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.



Compliance and Other Matters

As part of obtaining reasonable assurance about whether Montana Medical Legal Panel's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Per MCA 27-6-207, during a Panel audit the report must include a determination of the adequacy, sufficiency, and reasonableness of the annual surcharge or assessment. We have determined the assessment for the year ended December 31, 2012 to be adequate, sufficient, and reasonable.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with Government Auditing Standards in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

*Junkermier, Clark, Campanella, Stevens, P.C.*

Helena, Montana  
May 22, 2013

# MONTANA MEDICAL LEGAL PANEL

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June 3, 2013

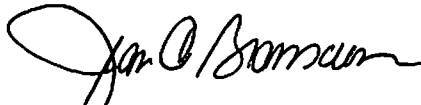
Junkermier, Clark, Campanella, Stevens, P.C.  
Certified Public Accountants  
P.O. Box 1164  
Helena, Montana 59624

RE: Montana Medical Legal Panel

Dear Junkermier, Clark, Campanella, Stevens, P.C.,

We have reviewed the draft audit report for the Montana Medical Legal Panel.  
We are pleased that the Medical Panel meets accounting standards and that no  
recommendations for improvement were noted.

Sincerely,



Jean A. Branscum  
Director